

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT

AUG 27 2013

FOR THE WESTERN DISTRICT OF LOUISIANA

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SHREVEPORT DIVISION

FREDDIE R. LEWIS

versus

CIVIL ACTION NO. 11-0469
JUDGE TOM STAGG

WARDEN, WINN CORRECTIONAL
CENTER

MEMORANDUM ORDER

Before the court is Freddie Lewis's ("Lewis") appeal of Magistrate Judge Mark Hornsby's order (Record Document 32) denying Lewis's "Motion For Designation Of 'Transcript' To The Court Record" (Record Document 31). Based on the following, Magistrate Hornsby's ruling is **AFFIRMED**.

Any party may appeal a magistrate judge's ruling on a non-dispositive matter to a district court judge under Rule 72(a) of the Federal Rules of Civil Procedure and Local Rule 74.1. On appeal, the district judge may "set aside any portion of the order that is clearly erroneous or contrary to the law." Fed. R. Civ. Proc. 72(a). The decision by Magistrate Judge Hornsby to deny Lewis's motion is a non-dispositive matter. This action is not listed in 28 U.S.C. § 636(b)(1)(A) as one of the dispositive motions (often referred to as the "excepted motions") that a magistrate judge may not conclusively decide. See Maisonville v. F2 Am., Inc., 902 F.2d 746, 747-748 (9th

Cir. 1990), cert. denied, 498 U.S. 1025, 111 S. Ct. 674 (1991) (“[S]ection 636(b)(1)(A) lists those motions which may not be determined by a magistrate. Accordingly, any motion not listed, nor analogous to a motion listed in this category, falls within the non-dispositive group of matters which a magistrate may determine.”). The magistrate judge’s August 5, 2013, ruling is not a recommendation to the district court, which normally requires de novo review under Rule 72. Rather, it is an order from the magistrate judge on a non-dispositive matter that requires the district court to uphold the ruling unless it is clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A).

The order issued by Magistrate Judge Hornsby denying Lewis’s motion explained that Lewis has already filed over 1,000 pages of documents in support of his claims and that he has failed to show good cause to add another 109 pages to the record. See Record Document 32. The order further told Lewis that if a hearing was ordered, he would be allowed an opportunity to present relevant evidence. See id.

Magistrate Judge Hornsby’s ruling is not clearly erroneous or contrary to law. The court concurs with the magistrate’s determination. Accordingly, Magistrate Judge Hornsby’s order (Record Document 32) is **AFFIRMED**.

THUS DONE AND SIGNED at Shreveport, Louisiana this the 27th day of August, 2013.


JUDGE TOM STAGG